

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charlie Hartford	Team: Squad #16	CCRB Case #: 201800624	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 01/05/2018 9:19 AM, Monday, 01/15/2018, Wednesday, 01/17/2018, Thursday, 01/18/2018	Location of Incident: § 87(2)(b)	Precinct: 111	18 Mo. SOL 7/5/2019	EO SOL 7/5/2019	
Date/Time CV Reported Tue, 01/23/2018 4:24 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/23/2018 4:24 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			111 PCT
2. SGT Kevin Kee	03074	924014	111 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Robert Dussel	25510	950363	111 PCT
2. POM Nicholas Sommella	22101	963764	111 PCT
3. POF Stephanie Matthes	18145	936766	111 PCT
4. POF Erica Barry	02401	929917	111 PCT
5. POM Anthony Corrao	03347	948814	111 PCT
6. POM Scott Palmese	14294	961062	111 PCT

Officer(s)	Allegation	Investigator Recommendation
A. SGT Kevin Kee	Abuse: On January 5, 2018, Sergeant Kevin Kee forcibly removed § 87(2)(b) to the hospital	§ 87(2)(b)
B. Officers	Abuse: On January 5, 2018, officers interfered with § 87(2)(b)'s use of a recording device.	§ 87(2)(b)
C. Officers	Abuse: On an unknown date, officers forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)

Case Summary

On January 23, 2018, § 87(2)(b) filed this complaint with the CCRB via phone.

On January 5, 2018, at approximately 9:30 a.m., Sergeant Kevin Kee of the 111th Precinct responded to § 87(2)(b) in Queens and forcibly removed § 87(2)(b) to the hospital (**Allegation A: Abuse of Authority**, § 87(2)(g)). Officers allegedly interfered with § 87(2)(b)'s ability to record this interaction (**Allegation B: Abuse of Authority**, § 87(2)(g)).

On an unknown date, officers forcibly removed § 87(2)(b) to the hospital (**Allegation C: Abuse of Authority**, § 87(2)(g)).

This case contains no video evidence.

Findings and Recommendations

Allegation (A) Abuse of Authority: On January 5, 2018, Sergeant Kevin Kee forcibly removed § 87(2)(b) to the hospital.

During her verified interview on February 14, 2018, § 87(2)(b) estimated that there were approximately nine incidents in which she was forcibly removed to the hospital since February 2017 (Board Review 01). Between § 87(2)(b)'s initial complaint, phone statement, and sworn statement, § 87(2)(b) could not provide a date or time for any of these incidents, could not provide a coherent narrative for any specific incident, and provided only general answers about what usually happens when she is removed to the hospital, as well as isolated fragments of events that occurred during these removals and limited descriptions of the responding officers (Board Review 01 and 02). Upon being pressed to estimate a timeframe for when these incidents occurred, § 87(2)(b) provided two potential date ranges corresponding to two incidents: an incident that occurred at some time between late December 2018 and January 12, 2018, during which officers surrounded § 87(2)(b) while she was sitting on a couch and handcuffed her; and an incident that occurred on either January 16 or January 18, 2018, during which § 87(2)(b) met officers outside her residence and argued with them about going in an ambulance.

A SPIA check conducted on March 20, 2018 indicates that between December 23, 2017 and January 23, 2018, 14 discrete Events were created for § 87(2)(b) including multiple jobs labeled “violent EDP,” four of which were marked with the final disposition code “97H,” or “patient removed to hospital” (Board Review 03). Of these four events, only one, dated January 5, 2018, corresponds to the first range of dates provided by § 87(2)(b) (Board Reviews 03 and 11).

Sgt. Kee stated during his CCRB interview that on January 5, 2018 at approximately 9:30 a.m., he responded to a call regarding an EDP at § 87(2)(b) (Board Review 04). Sgt. Kee did not remember any additional information contained in the radio run, but stated that he “knew who it was already” because of numerous prior interactions with § 87(2)(b). Sgt. Kee stated, “It’s always the same thing: she’s off her meds, she’s threatening the guy that she lives with, she’s talking to herself constantly.” Upon each of the five or six occasions that Sgt. Kee has responded to § 87(2)(b), § 87(2)(b) was removed to the hospital. Sgt. Kee voiced uncertainty

about the specific details of this incident due to the numerous times he has responded to this location.

Upon responding to § 87(2)(b) Sgt. Kee entered the location and observed that § 87(2)(b) was sitting on the couch, alternately softly speaking and screaming. Other officers and EMS were already present at the location. Sgt. Kee could not recall who called for EMS. Sgt. Kee could not describe what § 87(2)(b) was saying and stated that “half the time” what § 87(2)(b) says does not make any sense. Sgt. Kee spoke to § 87(2)(b)'s roommate, § 87(2)(b) who stated that § 87(2)(b) had threatened him earlier that day without providing further detail regarding the threat. Sgt. Kee decided to remove § 87(2)(b) to the hospital to be evaluated because it appeared that § 87(2)(b) was “a threat to either § 87(2)(b) or herself.”

PO Nicholas Sommella of the 111th Precinct provided a substantially different narrative from Sgt. Kee during his CCRB interview and, despite having only responded one time to the location, stated that he had little recollection of this incident (Board Review 05). In contrast to Sgt. Kee, PO Sommella stated that when he responded to § 87(2)(b) on January 5, 2018, § 87(2)(b) was standing outside of her residence. § 87(2)(b)'s demeanor was "a little wound up" and "very talkative." PO Sommella recalled § 87(2)(b) repeatedly stating, "Officer, officer," and screaming and yelling, but PO Sommella could not remember anything else § 87(2)(b) was saying. PO Sommella then went up to the second floor and spoke with § 87(2)(b) who informed PO Sommella that he and § 87(2)(b) were having a dispute. PO Sommella was not aware of any indications that § 87(2)(b) posed a danger to herself or others during the incident. PO Sommella stated that he assisted his partner, PO Robert Dussel, in preparing the AIDED card for this incident.

The AIDED card prepared on January 5, 2018 by PO Dussel states that § 87(2)(b) did not threaten or attempt to harm either herself or others, but that § 87(2)(b) was unable to care for herself, was yelling and screaming in the residence, and attempted to lock herself in the bathroom (Board Review 06). Neither Sgt. Kee nor PO Sommella recalled § 87(2)(b) attempting to lock herself in a bathroom during the incident (Board Reviews 04 and 05).

Patrol Guide Procedure 221-13 defines an emotionally disturbed person as a person who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner likely to result in a serious injury to themselves or others (Board Review 07). The Patrol Guide demands that emotionally disturbed persons be removed to the hospital.

§ 87(2)(g) [REDACTED]

Allegation (B) Abuse of Authority: On January 5, 2018, officers interfered with § 87(2)(b)'s use of a recording device.

§ 87(2)(b) stated during her sworn statement that during the incident on January 5, 2018, in which she was surrounded by officers in her living room and handcuffed, her phone was on a table recording the incident and an officer, whom she did not describe, shut it off (Board Review 01). § 87(2)(b) did not know whether she was ultimately able to record the incident. During her CCRB interview, § 87(2)(b) refused to check whether there was footage on her phone depicting the incident because there was “more than one thing” in her phone. During a follow up call, § 87(2)(b) stated that she had not had time to check whether she had recorded the incident (Board Review 08). § 87(2)(b) never provided a definitive response about whether she had recorded the incident.

Neither Sgt. Kee nor PO Sommella recalled § 87(2)(b) attempting to record the incident on January 5, 2018 or an officer shutting of the record function on § 87(2)(b)'s phone (Board Reviews 04 and 05).

§ 87(2)(g)

Allegation (C) Abuse of Authority: On an unknown date, officers forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(b) stated during her CCRB interview that on either January 16, or January 18, 2018, officers responded to her residence and removed her to the hospital (Board Review 01). § 87(2)(b) stated that officer may have arrived in response to a 911 call placed by § 87(2)(b) requesting an ambulance for § 87(2)(b) however, § 87(2)(b) could not state what information she provided to the officers if this was the case. During the incident, § 87(2)(b) met officers outside her residence and attempted to tell the officers that she did not want to go into the ambulance.

A SPIA check shows that officers responded three times to § 87(2)(b)'s residence within the date range provided by § 87(2)(b) twice on January 15, 2018, and once on January 17, 2018 (Board Reviews 03 and 12). Each of these events was marked with the final disposition code “97H,” or “patient removed to the hospital.”

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (Board Review 09).
- During Sgt. Kee's 19 years as a member of the NYPD, he has been the subject of five allegations in five cases. § 87(2)(g)

Mediation, Civil and Criminal Histories

- A FOIL request filed on August 2, 2018 indicates that § 87(2)(b) has not filed a notice of claim regarding this incident (Board Review 13).
- § 87(2)(b) was offered mediation, but never definitively accepted or rejected mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date